

1 MELINDA HAAG (SBN 132612)  
United States Attorney  
2 JOANN M. SWANSON (SBN 88143)  
Chief, Civil Division  
3 ABRAHAM A. SIMMONS (SBN 146400)  
Assistant United States Attorney

4 450 Golden Gate Avenue, 9th Floor  
5 San Francisco, California 94102-3495  
6 Telephone: (415) 436-7264  
Facsimile: (415) 436-6748  
Email: abraham.simmons@usdoj.gov

7 Attorneys for United States

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 DORA BAires, individually and on behalf ) No. C 09-5171 CRB  
of the estate of JUAN CARLOS BAires; )  
and TEOFILO MIRANDA, an individual, ) E-FILING CASE  
13 Plaintiffs )  
14 v. )  
15 THE UNITED STATES OF AMERICA; ) DECLARATION OF  
THE DEPARTMENT OF HOMELAND ) BRIAN MYRICK  
SECURITY; UNITED STATES ) IN SUPPORT OF  
IMMIGRATION AND CUSTOMS ) MOTION TO DISMISS OR FOR  
ENFORCEMENT; THE DIVISION OF ) SUMMARY JUDGMENT REGARDING  
IMMIGRATION HEALTH SERVICES; ) PLAINTIFFS'  
THE OFFICE OF DETENTION AND ) SECOND AMENDED COMPLAINT  
REMOVAL;  
JOHN P. TORRES, an individual;  
JAMES T. HAYES, an individual;  
NANCY ALCANTAR, an individual;  
TIMOTHY AIKEN, an individual;  
BRIAN MYRICK, an individual;  
THE COUNTY OF KERN; KERN  
COUNTY SHERIFF'S DEPARTMENT;  
KERN MEDICAL CENTER; LERDO  
DETENTION FACILITY; DONALD  
YOUNGBLOOD, an individual;  
KHOSROW MOSTOIFI, M.D., an  
individual; UNKNOWN ICE OFFICIALS;  
UNKNOWN LERDO CORRECTIONAL  
OFFICERS; UNKNOWN LERDO  
MEDICAL STAFF; UNKNOWN LERDO  
ADMINISTRATORS; UNKNOWN KERN  
MEDICAL CENTER STAFF and DOES  
1 through 100,  
Defendants.

Date: March 11, 2011  
Time: 10:00 a.m.  
Place: Courtroom 8, 19th Fl.  
Before: Hon. Charles R. Breyer

1 I, Brian J. Myrick, declare as follows:

2 1. I am a Deportation Officer employed by the Department of Homeland Security ("DHS"),  
3 Immigration and Customs Enforcement ("ICE"), Office of Enforcement and Removal Operations  
4 ("ERO"), in Bakersfield, California. ERO is the component within ICE which is primarily  
5 responsible for the identification, apprehension, detention, and removal of illegal aliens from the  
6 United States. I have been employed as a Deportation Officer since August of 2007. The  
7 statements contained in this declaration are based upon my personal knowledge.

8 2. Among my duties as a Deportation Officer are (1) receiving a list of immigration  
9 detainees that are assigned to me, (2) ensuring that such detainees obtain travel documents from  
10 their respective governments and (3) responding to concerns of detainee representatives. In  
11 general, I have no occasion to meet detainees unless and until an interview is scheduled.  
12 Interviews generally are scheduled between detainees and consulate representatives (from the  
13 detainee's government) as part of the process for obtaining travel documents.

14 3. In October of 2008, I was one of the Deportation Officers that handled detainees in the  
15 Bakersfield Area. Many such detainees were held at the contract facility referred to as Lerdo Pre-  
16 trial Detention Facility in Kern County ("Lerdo").

17 4. I do not have the authority to decide at which institution any particular detainee will be  
18 housed. I do not provide medical attention to detainees. I am informed and aware that  
19 contracting facilities, such as Lerdo, agree as part of their contract to provide medical care to  
20 detainees. I have no role in the creation or maintenance of the contract between the United States  
21 and Kern County for the housing of detainees.

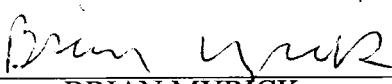
22 5. Juan Carlos Baires was one of the detainees that was assigned to me in October of 2008.  
23 I never met Mr. Baires. This is not unusual as it is my recollection Mr. Baires was not scheduled  
24 to have an interview within the time he was detained by ICE in Kern County.

25 6. On October 27, 2008, I reviewed for the first time a letter dated October 24, 2008, from  
26 Linda Tam that was delivered to my office via facsimile. I am aware of the allegations  
27 suggesting I reviewed the letter on October 24, 2008, and ignored its contents until  
28 October 27, 2008. This simply is not true. To the best of my recollection, the first time I became

1 aware of the letter was on the morning of Monday, October 27, 2008. Moreover, even if I had  
2 received the letter in the evening of Friday, October 24, 2008, I believe this would have made  
3 little difference because I generally was unable to reach Lerdo's medical staff after 3:30 p.m. on a  
4 Friday.

5 7. After I received the October 24, 2008, letter, I responded by calling my contact at the  
6 Lerdo infirmary, a registered nurse named Deann (I do not know her last name). As is stated in  
7 the plaintiffs' Second Amended Complaint, on October 27, 2008, I told RN Deann that Baires'  
8 representative had concerns regarding whether he had access to the proper medications for his  
9 medical condition. RN Deann responded with information regarding Baires' condition—  
10 including sufficient then-confidential information—to assure me that Baires (1) was not being  
11 denied access to medication and (2) would be seen in a timely manner by the appropriate medical  
12 personnel. I was made aware that Kern County did not yet have, but was seeking, additional  
13 information from other sources regarding Baires' medical condition. Nothing in my conversation  
14 with RN Deann suggested that Baires was in danger of being denied timely access to medication  
15 or medical attention.

16 8. I do not recall ever being assigned to a detainee by the name of Teofilo Miranda.  
17 I declare the above to be true to the best of my knowledge and belief.

18  
19  
20   
21 BRIAN MYRICK  
22  
23  
24  
25  
26  
27  
28